

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLIAM M GILBERT
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 20A-DUA-00300-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance

STATEMENT OF THE CASE:

On September 3, 2020, William Gilbert (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated August 27, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA).

A telephone hearing was held on October 14, 2020. The parties were properly notified of the hearing. The claimant participated personally.

Official notice was taken of the administrative record.

ISSUE:

Is the claimant eligible for Pandemic Unemployment Assistance (PUA)?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant is self-employed. Claimant sells ads to local merchants in an entertainment magazine that he then publishes, prints, and distributes. Many of the local merchants claimant sells ads and distributes the magazine to were closed or had reduced business due to the pandemic. This made it more difficult to sell ads and also to distribute the magazine.

Claimant has been advised by his doctor to self-isolate due to his age and medical concerns. Claimant was still able to contact the merchants and to print the magazine; however, it did not make business sense to do so given the low ad sales and distribution.

Claimant has not been diagnosed with or had symptoms of COVID-19. Neither has a household member. Claimant is not eligible for regular compensation or extended benefits under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC).

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the Iowa Workforce Development decision dated August 27, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is AFFIRMED.

Public Law 116-136, Sec. 2102 provides for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending on or before December 31, 2020, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19. The issue to be determined here is whether claimant is a “covered individual” within the meaning of applicable law.

(3) COVERED INDIVIDUAL.—The term “covered individual”—

(A) means an individual who—

(i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and

(ii) provides self-certification that the individual—

(l) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because—

(aa) the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(bb) a member of the individual's household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;

(ii) the individual has to quit his or her job as a direct result of COVID-19;

(jj) the individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or

(II) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (I); and

(B) does not include—

(i) an individual who has the ability to telework with pay; or

(ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(I).

The administrative law judge finds claimant is not unable or unavailable to work because of one of the qualifying reasons set forth above. Claimant's business has clearly slowed due to the pandemic. However, loss of employment due to the general economic downturn associated with the pandemic is not a qualifying reason. While claimant has been advised by his doctor to self-isolate due to his age and medical concerns, that is not the reason for the downturn in his business. Claimant is still able to contact the merchants and to print the magazine; however, it did not make business sense to do so given the low ad sales and distribution that have been a result of the pandemic.

The administrative law judge is sympathetic to claimant's situation. However, in order to be eligible for PUA, a claimant must be unemployed, partially unemployed, or unable or unavailable to work because of one of the reasons set forth above. Because claimant's situation does not fall under one of the categories set forth above, the undersigned must find him ineligible for PUA.

DECISION:

The Iowa Workforce Development decision dated August 27, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is AFFIRMED.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Des Moines, Iowa 50319-0209
Fax (515) 478-3528

October 15, 2020
Decision Dated and Mailed

abd/sam